

APPEAL NO. 020444
FILED MARCH 28, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 22, 2002. With respect to the issues before her, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____; that the claimant did not notify his employer of the claimed injury within 30 days, nor did the claimant have good cause for failure to timely report the alleged injury; that the claimant is not barred from pursuing workers' compensation benefits because of the election-of-remedies doctrine; and that because there was no compensable injury, there can be no disability. The claimant appeals the hearing officer's determinations, contending that they are against the great weight and preponderance of the evidence. The respondent (carrier) responds, urging affirmance. The determination that the claimant is not barred from pursuing workers' compensation benefits because the election of remedies has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer made findings of fact and concluded that the claimant did not sustain a compensable injury on _____, or timely report the alleged injury, and that because the claimant had no compensable injury, he had no disability therefrom. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the trier of fact, the hearing officer may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. When reviewing a hearing officer's decision to determine the factual sufficiency of the evidence, we should set aside the decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Appeal No. 950084, *supra*. We conclude that the hearing officer's findings, conclusions, and decision are supported by sufficient evidence and that they are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the self insured is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Susan M. Kelley
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge